

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

Truth Technologies, Inc.,

Plaintiff,

V.

Jonathan Arnold, *et al.*,

Defendants.

Civil Action No.: 1:17-cv-833 (LO/JFA)

**MEMORANDUM IN SUPPORT OF MOTION TO SEAL PORTIONS OF THE
DECLARATION OF JAMES HUGHES
AND EXHIBIT 2 TO DECLARATION OF JONATHAN ARNOLD**

Pursuant to Local Rule 5, Defendants submit this memorandum in support of their Motion to Seal.

Defendants file this motion out of an abundance of caution. Plaintiff wrongfully accuses Defendants of stealing and using confidential information and trade secrets and copyrighted material. Plaintiff has moved for a temporary restraining order (ECF No. 3), and the Court has scheduled a hearing for August 4, 2017.

Defendants are filing today declarations and exhibits opposing Plaintiff's motions.

Plaintiff is prosecuting this case on a very expedited basis. There has been no opportunity to work out a Protective Order or to discuss confidentiality matters.

Exhibit 2 to the Declaration of Jonathan Arnold is a 2008 business document that was labeled “CONFIDENTIAL” in the ordinary course of business. Defendants take the position that this material should not be filed under seal because Plaintiff filed other material marked confidential in the public record (*see* Exhibit 6 to the Complaint [ECF No. 1-6]) and published

on its website documents containing confidential markings; such actions imply that a confidential marking is not necessarily any indication as to whether the information is truly confidential. However, given that Exhibit 2 is Plaintiff's document and bears "CONFIDENTIAL" markings, Defendants file this Motion to permit Plaintiff an opportunity to argue in favor of sealing under Local Rule 5 and submit a proposed Order setting forth the required findings of fact and conclusions of law.

Similarly, certain paragraphs of Mr. Hughes' Declaration contain business information about Plaintiff. Again, Defendants do not take the position that sealing is required because this is old and outdated financial information, much of which was circulated widely to potential buyers. Further, by characterizing an offer as inadequate, Plaintiff has opened the door to an examination of the amount, basis, and adequacy of the offer. Out of an abundance of caution, Defendants file this Motion to permit Plaintiff an opportunity to argue in favor of sealing under Local Rule 5 and to submit a proposed Order setting forth the required findings of fact and conclusions of law.

Dated: August 2, 2017

By: /s/ Susan R. Podolsky

Susan R. Podolsky
Virginia Bar No. 27891
Law Offices of Susan R. Podolsky
1800 Diagonal Road
Suite 600
Alexandria, VA 22314
Tel: 571.366.1702
Fax: 703.647.6009
spodolsky@podolskylaw.com

Dan Jeremy Schulman (*pro hac vice*
application pending)
The Schulman Law Firm LLP
11 Broadway
Suite 615
New York, NY 10004
Tel: 646.688.5214
Fax: 646.304.1117
djs@djslf.com
Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2017, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

/s/ Susan R. Podolsky

Susan R. Podolsky (Va. Bar No. 27891)

LAW OFFICES OF SUSAN R. PODOLSKY

1800 Diagonal Road, Suite 600

Alexandria, Virginia 22314

Telephone: (571) 366-1702

Facsimile: (703) 647-6009

spodolsky@podolskylaw.com

Counsel for Defendants